



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

**[Docket No. 221104-0234]**

**RIN 0648-BL55**

#### **Fisheries of the Northeastern United States; Mid-Atlantic Golden Tilefish Fishery; Framework Adjustment 7 to Tilefish Fishery Management Plan**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule implements Framework Adjustment 7 to the Tilefish Fishery Management Plan, which includes specifications for the golden tilefish fishery for fishing years 2022-2024, a change to the annual specifications process, and a change to the start of the golden tilefish fishing year. This action is necessary to establish allowable harvest levels and other management measures to prevent overfishing while allowing optimum yield. This action is intended to ensure measures are based on the best scientific information available and increase flexibility, where possible, for the tilefish fishery.

**DATES:** This rule is effective November 9, 2022.

**ADDRESSES:** Copies of the Environmental Assessment prepared for Tilefish Framework Adjustment 7, and other supporting documents for this action, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. These documents are also accessible via the internet at <https://www.mafmc.org>.

**FOR FURTHER INFORMATION CONTACT:** Laura Hansen, Fishery Management Specialist, (978) 281-9225.

## SUPPLEMENTARY INFORMATION:

### Background

The Mid-Atlantic Fishery Management Council (Council) manages the golden tilefish fishery under the Tilefish Fishery Management Plan (FMP), which outlines the Council's process for establishing annual specifications. The FMP requires the Council to recommend acceptable biological catch (ABC), an annual catch limit (ACL), an annual catch target (ACT), total allowable landings (TAL), and other management measures, currently for up to 3 years at a time. The directed commercial fishery is managed under an individual fishing quota (IFQ) program, with small amounts of non-IFQ catch allowed under an incidental permit. Detailed background information regarding the development of the 2022-2024 specifications for this fishery was provided in the proposed rule for this action (87 FR 56393; September 14, 2022), and is not repeated here.

#### *2022-2024 Fishery Specifications*

In 2020, the Council set specifications for 2021 and interim specifications for 2022. This action revises the 2022 golden tilefish ABC with a 20-percent increase from the interim 2022 specifications, maintains a constant ABC for 2023, and projects the same ABC for 2024. The 20 percent increase was based on the 2021 management track stock assessment and recommendations from the Scientific and Statistical Committee and Tilefish Monitoring Committee. This action makes no changes to the current recreational bag limit or the commercial/incidental trip limit. NMFS will publish a notice in the *Federal Register* before the 2024 fishing year notifying the public of the final specifications.

**Table 1 -- Final 2022 and 2023 and Projected 2024 Specifications**

ABC	1,964,319 lb (891 mt)
ACL	1,964,319 (891 mt)
IFQ fishery ACT	1,763,478 (800 mt)

Incidental fishery ACT	92,815 (42 mt)
IFQ fishery TAL = ACT (no discards permitted in fishery)	1,763,478 lb (800 mt)
Incidental fishery TAL = Incidental fishery ACT - discards	75,410 lb (42 mt)
Incidental Trip Limit	500 lb (226.8 kg) or 50 percent, by weight, of all fish, including golden tilefish, on board the vessel, whichever is less
Recreational Bag Limit	8-fish recreational bag-size limit per angler, per trip

### *Multi-Year Specifications*

This action modifies the annual specifications process, so that multi-year specifications can be set for up to the maximum number of years needed to be consistent with the Northeast Region Coordinating Council-approved stock assessment schedule. Multi-year regulations have been implemented for all fisheries managed by the Council to relieve some of the administrative demands on the Council and NMFS associated with annual specification requirements. Longer-term specifications also provide greater regulatory consistency and predictability to the fishing sectors. This action provides additional flexibility as specifications could be set to cover the time period until a new golden tilefish stock assessment is available. Stock assessments provide critical information for setting specifications and, in the period between assessments, there often is no new information that would lead to changes to annual specifications. The Council will continue its process of reviewing multi-year specifications each year to determine if any modifications are necessary.

### *Fishing Year Timing*

This action changes the fishing year to match the calendar year and starts on January 1. Changing the fishing year to the calendar year will match the period used in the stock assessments and the cost recovery program for the golden tilefish IFQ fishery. The 2022 fishing year, which started on November 1, 2021, will continue through December 31, 2022. The 2022 fishing year would be a 14-month year and IFQ permit holders will receive additional allocation because of the 20-percent increase to the 2022 ABC. IFQ permit holders would start with a new allocation at the start of the 2023 fishing year on January 1, 2023, based on the revised 2023 ABC. The 2023 fishing year, and all subsequent fishing years, will begin on January 1 and end on December 31.

### **Comments**

On September 14, 2022, we published a proposed rule (87 FR 56393) requesting comment on the measures in Tilefish Framework Adjustment 7. The comment period was open through September 29, 2022. We received three public comments. One comment was not relevant to this rule.

*Comment 1:* One commenter supported the administrative changes, but opposed the increased ABC. The commenter noted that a constant harvest strategy is a better approach and avoids, "whiplash" quotas for the fishery.

*Response:* To account for potential uncertainties in the assessment projections, the Council adopted an Annual Catch Target that is more conservative. This provides stability in the annual specifications and reduce the risk of wide fluctuations in quotas. Maintaining the status quo would have prevented achieving optimum yield based on the most recent assessment information for this stock and would likely have unnecessarily disadvantaged smaller quota shareholders. The small increase implemented in this action balances the need to achieve optimum yield, while still minimizing variability and providing stability for the fishery.

*Comment 2:* One comment opposed the 8-fish recreational bag limit and

recommended a lower bag limit of 4-6 fish as tilefish grow slowly and anglers rarely catch the current limit.

Response: The Monitoring Committee considered changing the bag limit, but opted not to because recreational landings are not included in the stock assessment model and because we did not change the bag limit when the quota dropped a few years ago. The bag limit is expected to help the fishery achieve the quota, and these measures are expected to maintain catch within the quota. The recreational bag limit also has not changed since it was first implemented by Amendment 1. In the final rule for Amendment 1, 8 fish was selected as the upper range of the mean effort in 1996-2005. Since that time, the mean effort numbers have tended to be in the range of 3-4 fish per angler, which indicates the 8-fish bag limit is not generally achieved and reducing it might not result in increased conservation. In addition, the 8-fish limit is valuable to party/charter owners who are trying to attract patrons for these long-duration trips offshore and the potential to take home 8 fish.

### **Changes from the Proposed Rule**

The proposed rule inadvertently omitted the amendatory language to update the definition of 'Fishing Year' at 50 CFR 648.2 to reflect the corresponding proposed change to the golden tilefish fishing year. This final rule corrects this oversight. There are no other changes from the proposed rule.

### **Classification**

Pursuant to section 304(b)(3) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with Framework Adjustment 7 to the Tilefish FMP,

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make the rule effective upon filing with the Office of the Federal

Register. This rule changes the end of the fishing year to December 31 and extends the 2022 fishing year. Making this rule effective upon filing will allow additional time for IFQ permit holders to fully use the additional quota they will receive as a result of increasing their 2022 allocations. For these reasons, NMFS finds that a 30-day delay in effectiveness would be contrary to the public interest.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

#### **List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 7, 2022.

Samuel D. Rauch, III,  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 648 as

follows:

## **PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 648.2, revise the “Fishing year” definition to read as follows:

### **§ 648.2 Definitions.**

\* \* \* \* \*

*Fishing year* means:

(1) For the Atlantic deep-sea red crab fishery, from March 1 through the last day of February of the following year.

(2) Beginning in 2018, for the Atlantic sea scallop fishery, from April 1 through March 31 of the following year (for 2017, the Atlantic sea scallop fishing year will be from March 1, 2017, through March 31, 2018).

(3) For the NE multispecies, monkfish and skate fisheries, from May 1 through April 30 of the following year.

(4) For all other fisheries in this part, from January 1 through December 31.

\* \* \* \* \*

3. In § 648.292, revise paragraph (a) introductory text and paragraph (a)(1) to read as follows:

### **§ 648.292 Tilefish specifications.**

(a) ***Golden Tilefish.*** The golden tilefish fishing year is the 12-month period beginning with January 1, annually.

(1) ***Annual specification process.*** The Tilefish Monitoring Committee shall review the ABC recommendation of the SSC, golden tilefish landings and discards information, and any other relevant available data to determine if the golden tilefish ACL, ACT, or total allowable landings (TAL) for the IFQ and/or incidental sectors of the

fishery require modification to respond to any changes to the golden tilefish stock's biological reference points or to ensure any applicable rebuilding schedule is maintained. The Monitoring Committee will consider whether any additional management measures or revisions to existing measures are necessary to ensure that the IFQ and/or incidental TAL will not be exceeded. Based on that review, the Monitoring Committee will recommend the golden tilefish ACL, ACTs, and TALs to the Tilefish Committee of the MAFMC. Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the MAFMC the appropriate golden tilefish ACL, ACT, TAL, and other management measures for both the IFQ and the incidental sectors of the fishery for a single fishing year or up to the maximum number of years needed to be consistent with the Northeast Regional Coordinating Council-approved stock assessment schedule. The MAFMC shall review these recommendations and any public comments received, and recommend to the Regional Administrator, at least 120 days prior to the beginning of the next fishing year, the appropriate golden tilefish ACL, ACT, TAL, the percentage of TAL allocated to research quota, and any management measures to ensure that the TAL will not be exceeded, for both the IFQ and the incidental sectors of the fishery, for the next fishing year, or up to the maximum number of fishing years consistent with the Northeast Regional Coordinating Council-approved stock assessment schedule. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations and, after such review, NMFS will publish a proposed rule in the **Federal Register** specifying the annual golden tilefish ACL, ACT, TAL, and any management measures to ensure that the TAL will not be exceeded for the upcoming fishing year or years for both the IFQ and the incidental sectors of the fishery. After considering public comments, NMFS will publish a final rule in the **Federal Register** to implement the golden tilefish



ACL, ACTs, TALs and any management measures. The previous year's specifications will remain effective unless revised through the specification process and/or the research quota process described in paragraph (a)(5) of this section. NMFS will issue notification in the **Federal Register** if the previous year's specifications will not be changed.

\* \* \* \* \*

[FR Doc. 2022-24540 Filed: 11/9/2022 8:45 am; Publication Date: 11/10/2022]